UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, Plaintiff, v. DAVID G. PFLUM, et al., Defendants.	CASE NO. C12-1632JLR ORDER

I. INTRODUCTION

This matter involves an action by Plaintiff United States of America to foreclose federal tax liens upon certain real property of Defendant David G. Pflum. (*See* Compl. (Dkt. # 1).) Before the court are several notices or other documents filed by Mr. Pflum (Dkt. ## 33, 35, 37). Mr. Pflum filed these documents after the court entered default judgment against him (Dkt. # 29) and entered an order of sale with respect to the subject properties (Dkt. # 30, *as amended by* Dkt. # 32). A large portion of these documents are unintelligible. (*See generally* Dkt. ## 35, 37.) The court, nevertheless, liberally

construes the intelligible portion of these documents as motions for reconsideration under either Federal Rules of Civil Procedure 55(c) or 60(b). The court has considered Mr. Pflum's motions, the responsive memoranda of the United States (Dkt. ## 34, 36), the balance of the record, and the applicable law. Being fully advised, the court DENIES Mr. Pflum's motions.

II. BACKGROUND

The United States filed its complaint in this matter on September 20, 2012. (*See* Compl.) On December 19, 2012, the United States filed a motion for default and to strike against Mr. Pflum, as well as Defendants Pilot Enterprise, LLC ("Pilot Enterprise") and Patricia A. Pflum. (Default Mot. (Dkt. # 13).) On February 14, 2013, the court granted the United States' motion against Ms. Pflum and Pilot Enterprise. (2/14/13 Order (Dkt. # 22).) The court did not grant the United States' motion with respect to Mr. Pflum, but rather ordered Mr. Pflum to show cause why the court should not enter default against him. (*Id.* at 4-5.) When Mr. Pflum did not timely respond to the court's order to show cause, the court directed the clerk to enter default against him. (3/5/13 Order (Dkt. # 23).)

On May 6, 2013, the United States moved for default judgment against Mr. Pflum, Ms. Pflum, and Pilot Enterprise (Dkt. # 25), and the court granted the United States' motion on June 16, 2013 (Dkt. # 29). The court also entered an order of sale with respect to certain properties of Mr. Pflum upon which the United States held valid tax liens. (Dkt. # 30, *as amended by* Dkt. # 32.)

Mr. Pflum filed his first "motion," which he entitled "NOTICE TO CEASE AND DESIST, RESCIND And TERMINATE ALL CASES FILED In KS, WA, & NV District Courts," on June 24, 2013. (6/24/13 Notice (Dkt. # 33).) Although Mr. Pflum's notice is not the model of clarity, he appears to assert that the underlying tax liability, for which the United States District Court in the District of Kansas rendered a judgment (*see* Case No. 5-12-cv-05115 (D. Kan.) Dkt. # 21), is invalid because the United States failed to show him the actual assessments on a "Form 23C." (*See* 6/24/13 Notice at 1, 11-29.) Mr. Pflum also appears to contend that the United States has somehow conceded that Title 18 of the United States Code is invalid. (*See id.* at 1-4.) Finally, he appears to assert that his tax liabilities have been offset from a secret treasury account in the name of DAVID GERALD PFLUM in favor of David G. Pflum. (*See id.* at 4.)

On August 23, 2013, Mr. Pflum filed another document which he entitled: "Document-Contract-Federal Postal-Station-Court-Venue (D.-C.-F.-P.-S.-C.-V.) of the Quo-Warranto-Complaint-Document." (8/23/13 Notice (Dkt. # 35) at 2.) The document appears to be signed and fingerprinted by Mr. Pflum (styled as ":David-G.: Pflum") and Mr. David Wynn Miller (styled as ":David-Wynn: Miller"), who is identified in the body of the document as a "Federal-Postal-Judge." (*Id.* at 3-4, 11.) This filing is filled with arcane language, relies repeatedly on an incoherent doctrine referred to as "C.-S.-S.-C.-P.- S.-G.=Correct-Sentence-Structure-Communications-Parse-Syntax-Grammar," and is generally incomprehensible. (*See generally id.*) It is also identical to the "Notice" that Mr. Pflum recently filed in a closed criminal proceeding in Federal District Court in the District of Kansas that was commenced against him in 2004. (*See* Case No. 5:04-cr-

40008-SAC (D. Kan.) Dkt. # 166.) Finally, this filing bears striking resemblance to filings advocated by Mr. Miller in other courts. *See., e.g., Borkholder v. PNC Bank*, No. 3:12–CV–312–TLS, 2012 WL 3256888, at *1-*2 (N.D. Ind. Aug. 8, 2012).

On September 17, 2013, Mr. Pflum filed his third notice, entitled: "QUO-WARRANTO-COMPLAINT-DOCUMENT." (9/17/13 Notice (Dkt. # 37).) This document is similar in style to Mr. Pflum's August 22, 2013 filing and similarly incomprehensible. (*See generally id.*)

III. ANALYSIS

Federal Rule of Civil Procedure 55(c) provides that a court may set aside a default for "good cause shown." Fed. R. Civ. P. 55(c). The "good cause" standard that governs vacating an entry of default under Rule 55(c) is the same standard that governs vacating a default judgment under Federal Rule of Civil Procedure 60(b). *See TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 696 (9th Cir. 2001). The good cause analysis considers three factors: (1) whether the defendant engaged in culpable conduct that led to the default; (2) whether the defendant had a meritorious defense; or (3) whether reopening the default judgment would prejudice the plaintiff. *See id.* The factors are disjunctive, and the court may, therefore, deny the motion if any one of the three factors is true. *Am. Ass'n of Naturopathic Physicians v. Hayhurst*, 227 F.3d 1104, 1108 (9th Cir. 2000). Here, Mr. Pflum has failed to raise a meritorious defense and setting aside the default judgment would prejudice the United States.

To the extent Mr. Pflum's arguments are comprehensible, the court will address each in turn. First, Title 18 has no bearing on this proceeding. Title 18 of the United

States Code relates entirely to crimes, criminal procedure, prisons and prisoners, and immunity of witnesses. The Untied States brought this action under 26 U.S.C. §§ 7401, 7402, and 7403. (*See generally* Compl.) This is not a criminal proceeding, and thus Title 18 is of no consequence. In any event, Mr. Pflum's assertions are frivolous. Title 18 was originally enacted on June 25, 1948. *See* 62 Stat. 684. A law listed in the current edition of the United States Code is prima facie evidence of the law of the United States. *See* 1 U.S.C. § 204(a); *McNeil v. United States*, 78 Fed. Cl. 211, 219 (2007) ("There is no question that Congress has provided that the United States Code is prima facie evidence of the laws of the United States . . . ."). The court takes notice of the fact that Title 18 appears in the current edition of the United States Code, and Mr. Pflum has presented nothing to rebut this prima facie evidence.

Second, Mr. Pflum's assertion that his federal tax debt has been somehow been discharged because the United States did not "verify" his federal tax liabilities through a "Form 23C" or other specified record is frivolous. As assessment is not rendered invalid on grounds that the taxpayer did not receive a "Form 23C." Neither Treasury Department Regulations nor the Internal Revenue Code entitles taxpayers to a Form 23C. The applicable regulation only requires the government to provide a summary record of the assessment. *See* 26 C.F.R. § 301.6203-1 ("If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed."); *Koff v. United States*, 3 F.3d 1297, 1298 (9th Cir. 1993) ("We reject the [plaintiffs'] contention

that [26 U.S.C. §] 6203 entitles them to a copy of the summary record of assessment on Form 23C upon request."). In any event, the United States submitted, in conjunction with its motion for default judgment, Forms 4340 outlining the federal tax assessments against Mr. Pflum. (Default Judg. Mot. ¶¶ 6-17, Exs. 5-16.) The Form 4340 documents are certified, self-authenticating, and constitute "probative evidence in and of themselves and, in the absence of contrary evidence, are sufficient to establish that notices and assessments were properly made." *Hughes v. United States*, 953 F.2d 531, 540 (9th Cir. 1991) ("Forms [4340] are not merely a summary record of the proof, but are themselves proof that assessments were made."); *see also Koff*, 3 F.3d at 1298 ("Since the government has produced Certificates of Assessments and Payments on Form 4340, which set forth all the information this regulation requires, the [plaintiffs] have already been given all the documentation to which they are entitled by [26 U.S.C. §] 6203."); *Hansen v. United States*, 7 F.3d 137, 138 (9th Cir. 1993). Consequently, the court concludes that the United States has fully supported the debts underlying its claims in this action.

Third, Mr. Pflum's contention that his debt has been satisfied by an offset from a secret Treasury account is frivolous. The "rationale" for this argument is convoluted and based upon "equal parts revisionist legal history and conspiracy theory." *Bryant v. Wash. Mut. Bank*, 524 F. Supp. 2d 753, 758-61 (W.D. Va. 2007) (thoroughly explaining the background and nature of this argument). Federal courts have repeatedly and soundly rejected the contention that the Treasury Department maintains secret accounts for each United States citizen or that an individual can draw upon this secret Treasury account to

satisfy debts of any nature. *See e.g., id.* at 760 (citing *U.S. Bank, N.A. v. Phillips*, 852 N.E.2d 380, 381-82 (Ill. Ct. App. 2006); *McElroy v. Chase Manhattan Mortg. Corp*., 36 Cal. Rptr. 3d 176, 177-80 (Cal. Ct. App. 2005); *United States v. Williams*, 476 F. Supp. 2d 1368, 1372 (M.D. Fla. 2007); *Rasheed v. Comerica Bank*, No. Civ. 05–73668, 2005 WL 3592009, at *1 (E.D. Mich. Nov. 2, 2005); *Ray v. Williams*, No. CV–04–863–HU, 2005 WL 697041, *1-2, *5-6 (D. Or. Mar. 24, 2005)). This court likewise rejects Mr. Pflum's contention.

Finally, the similarity between Mr. Pflum's last two filings on August 23, 2013 and September 17, 2013 (Dkt. ## 35, 37), and filings by Mr. Miller in other federal courts, which have been repeatedly rejected or sanctioned, is plain. *See, e.g., Borkholder*, 2012 WL 3256888, at *1-*2; *Booker v. United States*, 107 Fed. Cl. 52, 57 (2012); *Abalos v. Greenpoint Mortg. Funding, Inc.*, No. 13–cv–00681–JST, 2013 WL 3243907, at *3-*4 (N. D. Cal. June 26, 2013). Mr. Pflum's last two filings provide no basis for setting aside the court's default judgment against him or the order of sale. The court warns Mr. Pflum that should he persist in placing frivolous filings on the docket, similar to those found at docket numbers 35 and 37, this court will not hesitate to follow the lead of other courts and impose appropriate sanctions.

IV. CONCLUSION

Based on the foregoing, the court DENIES the filings of Mr. Pflum (Dkt. ## 33,

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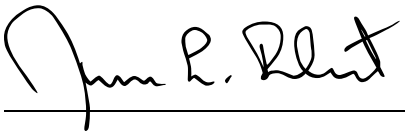
35, 37), which the court has liberally construed as motions for reconsideration under Federal Rules of Civil Procedure 55(c) or 60(b).

Dated this 4th day of December, 2013.



JAMES L. ROBART
United States District Judge